

146 FERC ¶ 61,176
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 13, 2014

In Reply Refer To:
BKEP Pipeline, L.L.C.
Docket No. OR14-15-000

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Dear Counsel:

1. On December 17, 2013, BKEP Pipeline, L.L.C. (BKEP) filed a request for temporary waiver of the filing and reporting requirements of sections 6 and 20 of the Interstate Commerce Act (ICA)¹ and Parts 341 and 357 of the Commission's regulations² with respect to BKEP's newly constructed crude oil Patriot Line. As discussed below, the Commission grants BKEP's request for temporary waiver.
2. BKEP states that it is currently constructing and testing the Patriot Line and expects to begin service on or around April 1, 2014. BKEP explains that once completed the Patriot Line will consist of a two-mile long, six-inch diameter pipeline which will transport crude oil from facilities near BKEP's production leases in southwestern New Mexico to tankage facilities at BKEP's Patriot Station. BKEP also explains that the Patriot Line will interconnect at its destination point to a pipeline owned by Plains All American Pipeline, L.P. BKEP represents that all crude oil transported through the Patriot Line will be owned by BKEP or an affiliate. BKEP also states that no third party has requested transportation on the Patriot Line and BKEP asserts that it is unlikely that any third party will make such a request. BKEP represents that there are no intermediate

¹ 49 U.S.C. app. §§ 6, 20 (1988) (requiring all interstate oil pipelines to file all rates, fares, and charges for transportation on their systems, to file copies of contracts with other common carriers for any such traffic, and authorizing the Commission to require annual or special reports from carriers subject to the ICA).

² 18 C.F.R. §§ 341, 357 (2013) (implementing the filing and reporting requirements of sections 6 and 20 of the ICA).

origin or destination points, and it is not aware of any entity likely to request such an interconnection. Under these circumstances, BKEP states that the Commission has granted similar waivers in the past. In order for BKEP to begin operation as scheduled, BKEP requested Commission action by March 15, 2014.

3. Notice of BKEP's request for temporary waiver issued on January 8, 2014. Persons desiring to intervene or protest this filing were accorded an opportunity to do so pursuant to Rules 211 and 214 of the Commission's Rules of Practice and Procedure.³ No requests for intervention or protests were received.

4. The Commission previously granted requests for temporary waiver of the filing and reporting requirements of its regulations and of sections 6 and 20 of the ICA when four criteria are met.⁴ First, the pipeline requesting temporary waiver (or its affiliates) owns 100 percent of the throughput on the line. Second, there is no demonstrated third-party interest in gaining access to or shipping upon the line. Third, there is no likelihood that such third-party interest will materialize. Fourth, there is no opposition to granting the waivers. Under these circumstances, the Commission determined there were no active third-party shipper interests to protect under the ICA, and therefore, temporary waivers of the section 6 and 20 filing and reporting requirements were warranted. However, such waivers are made subject to revocation should circumstances change, and the pipelines must keep their books and records in a manner consistent with the Commission's Uniform System of Accounts.

5. BKEP's request is similar to previous requests granted by the Commission. Under the facts presented, all of the crude oil transported will be owned by BKEP or an affiliate. Because of the planned operations and configuration of the Patriot Line, it is unlikely that

³ 18 C.F.R. §§ 385.211 and 385.214 (2013).

⁴ *ONEOK Rockies Midstream, L.L.C.*, 138 FERC ¶ 61,133 (2012); *Agave Energy Co.*, 136 FERC ¶ 61,094 (2011); *Saddle Butte Pipeline, LLC*, 136 FERC ¶ 61,071 (2011); *Chevron Pipe Line Co.*, 134 FERC ¶ 61,073 (2011); *Sinclair Pipeline Co., L.L.C.*, 134 FERC ¶ 61,077 (2011); *MV Purchasing, LLC*, 133 FERC ¶ 61,251 (2010); *Bear Paw Energy, LLC*, 132 FERC ¶ 61,259 (2010); *Whiting Oil and Gas Corp.*, 131 FERC ¶ 61,263 (2010); *Parnon Gathering, Inc.*, 129 FERC ¶ 61,273 (2009); *Jayhawk Pipeline L.L.C.*, 128 FERC ¶ 61,079 (2009); *Cimarron Gathering, L.P.*, 126 FERC ¶ 61,017 (2009); *CKB Petroleum, Inc.*, 125 FERC ¶ 61,259 (2008); *Giant Pipeline Co.*, 120 FERC ¶ 61,275 (2007); *Enbridge Pipelines (NE Texas Liquids) L.P.*, 117 FERC ¶ 61,046 (2006); *Enbridge Pipelines (NE Texas Liquids) L.P.*, 110 FERC ¶ 61,159 (2005); *Ciniza Pipe Line Inc.*, 73 FERC ¶ 61,377 (1995); *Hunt Refining Co.*, 70 FERC ¶ 61,035 (1995); *Sinclair Oil Corp.*, 4 FERC ¶ 62,026 (1978).

a third party will request service. There is no opposition to BKEP's waiver request. The Commission therefore concludes that, given the physical characteristics of the facilities and the limited nature of the planned pipeline operations, BKEP meets all of the criteria necessary to qualify for a temporary waiver consistent with the Commission's prior rulings.⁵

6. Accordingly, the Commission grants BKEP a temporary waiver of the filing and reporting requirements of ICA sections 6 and 20 and the Commission's related regulations with respect to BKEP's Patriot Line. Because these waivers are temporary, and based on the facts presented in the petition for waiver, the Commission also directs BKEP to immediately report to the Commission any change in the circumstances on which these waivers are based. Specifically, BKEP must report any changes including, but not limited to, increased accessibility of other pipelines or refiners to its facilities, changes in the ownership of the facilities, changes in the ownership of the crude being shipped, and shipment tenders or requests for service by any person. Additionally, BKEP must maintain all books and records in a manner consistent with the Uniform System of Accounts for Oil Pipelines, 18 C.F.R. Part 352, and make such books and records available to the Commission or its duly authorized agents upon request.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁵ *Id.*